ARC 0192C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments provide the annual updates of the statewide average cost of nursing facility services to a private-pay resident and the statewide average charges or maximum Medicaid rate for four levels of care in a medical institution.

The changes in Item 1 reflect an increase in the statewide average cost of nursing facility services to a private-pay person from $4,853.36 to $5,131.82 for state fiscal year 2013. This figure is used when a Medicaid applicant or member (or that person's spouse) transfers assets for less than fair market value to attain or maintain Medicaid eligibility. When assets are transferred under these circumstances, the applicant or member becomes ineligible for Medicaid payment of long-term care services. The period of this ineligibility is determined by dividing the amount transferred by the statewide average cost of nursing facility services to a private-pay person.

To determine this figure, the Department conducts an annual survey of the freestanding nursing facilities, hospital-based skilled facilities, and special population nursing facilities in Iowa. ("Special population" facilities may care for patients with dementia, Alzheimer's, or brain injury or provide pediatric skilled care, for example.) The amount is not related to rates paid by Medicaid for nursing facility care. A person would have to transfer a sum in excess of $500,000 before the penalty period would be reduced by a full month due to the annual change in cost.

The changes in Item 2 reflect the average or maximum charges for various levels of medical institution care, which are used to determine the disposition of the income of a medical assistance income trust (Miller-type trust). For state fiscal year 2013, these values are as follows:

- The average charge to a private-pay resident for nursing facility care has increased from $4,594 per month to $4,762.
- The average charge for care in a psychiatric medical institution for children has increased from $5,312 per month to $5,472 per month.
- The average charge for care in a state mental health institute has increased from $16,475 per month to $18,546 per month.
- The maximum Medicaid reimbursement rate for care in an intermediate care facility for persons with an intellectual disability has decreased from $24,060 per month to $23,801.

For the purposes of this rule making, the figure for nursing facility care includes only amounts reported on the Department's annual survey from the freestanding nursing facilities in Iowa. Hospital-based skilled facilities and special population units are not included, since trust beneficiaries are allowed to cover the cost of specialized care. The average charges for psychiatric medical institutions for children and intermediate care facilities for persons with an intellectual disability are based on Medicaid rates because Medicaid is the primary payer of these services.

An increase in these amounts may allow a few more people to qualify for medical assistance with Miller trusts because the effective income limit has increased. A decrease in these amounts may result in fewer people who qualify for medical assistance with Miller trusts due to the decrease in the income limit. However, with such high income limits, this change is unlikely to affect anyone applying for Medicaid in an intermediate care facility for persons with an intellectual disability.

The Council on Human Services adopted these amendments on June 13, 2012.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary for these amendments because the Department has no discretion in setting these amounts.

The Department finds that these amendments confer a benefit on the public by carrying out the Department's statutory responsibility to make available to the public the specific amounts for the thresholds referenced in the statute. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments do not provide for waivers in specified situations, since these amounts are derived through a standard methodology and are required by statute.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4 and Iowa Code chapter 633C.

These amendments became effective on July 1, 2012.

The following amendments are adopted.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2011~~ 2012, through June 30, ~~2012~~ 2013, this average statewide cost shall be ~~$4,853.36~~ $5,131.82 per month or ~~$159.65~~ $168.81 per day.

ITEM 2. Amend paragraph **75.24(3)"b"** as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, ~~2011~~ 2012, to June 30, ~~2012~~ 2013, shall be as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is ~~$4,594~~ $4,762 per month.

(2) The maximum statewide Medicaid rate for a resident of an intermediate care facility for ~~the mentally retarded~~ persons with an intellectual disability is ~~$24,060~~ $23,801 per month.

(3) The average statewide charge to a resident of a mental health institute is ~~$16,475~~ $18,546 per month.

(4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is ~~$5,312~~ $5,472 per month.

(5) No change.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/11/12.